

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IVAN RODRIGUEZ, MARCELINO MARTE,
and JESUS RODRIGUEZ, on behalf of
themselves and all similarly situated individual
employees and former employees of Canada Dry
Bottling Company of New York, L.P.,

Plaintiffs,

v.

CANADA DRY BOTTLING COMPANY, L.P.,
ABC CORPORATION (1-20), XYZ
CORPORATION (1-20), JOHN DOES (1-10),
and JANE DOES (1-10),

Defendants.

Civil No.: 14-6897 (KSH) (CLW)

Order

THIS MATTER having been opened to the Court by defendant Canada Dry Bottling Company of New York, L.P. (“defendant”), by way of partial motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) [D.E. 7]; and the Court having considered the submissions of the parties and having heard the arguments of counsel, if any, and for good cause shown;

IT IS this 30th day of September, 2015, hereby

ORDERED that the pending motion to dismiss specific claims is grant as follows:

1. Plaintiffs’ claims for impermissible deductions under the Fair Labor Standards Act in count 1 are dismissed without prejudice.
2. Plaintiffs’ claims for impermissible deductions under the New Jersey Wage and Hour Law in count 2 are dismissed without prejudice.

3. Plaintiffs' claims for failure to maintain records under the FLSA and NJWHL are dismissed with prejudice.

4. Plaintiffs' collective action claim under the FLSA is dismissed, without prejudice, pending plaintiffs' submission of the statutorily mandated written notices of consent to be a party-plaintiff with this Court.

5. Plaintiffs' shall have 14 days from the entry of this order to file an amended complaint as to their claims for impermissible deductions in count 1 and count 2 and to file the proper written consents under the FLSA so as to maintain a collective action.

/s/ Katharine S. Hayden
Katharine S. Hayden, U.S.D.J.